

**REMARKS**

Claims 1-26 were previously pending in this application. Claims 1, 2 and 16 have been amended. As a result claims 1-26 are pending for examination with claims 1, 2 and 16 being independent claims. No new matter has been added.

**Rejection under 35 U.S.C. §101**

Claims 1, 3-9, 16-22 and 25-26 are rejected under 35 U.S.C. §101, as appearing to be directed toward a method or process of obtaining or ordering a patient record, not requisitely tied to another statutory class.

Claims 1 and 16 have been amended to overcome this rejection by reciting a step of “requesting an order, by a requestor, for the patient record concerning the identified patient from the online location on a computer server.” As claimed, the computer server is an apparatus and therefore the method claims are tied to another statutory class. Support for this amendment can be found in the recitation of the Electronic Health Information (EHI) server 36 from which the “online location” (EHI website 12) can be accessed using a Universal Resource Locator (URL). (Detailed Description, pgs. 6-8). The EHI website is accessed through the Internet 6 using a commercially available browser, which is a software program running on a computing device such as a desktop or laptop computer, cellular phone, or a portable digital assistant (PDA). The EHI server 36 includes a processor 302, internal memory 304 and I/O interface 306, which are coupled to a bus 320. The EHI server 36 also includes a communications device 308 which provides EHI server 36 with connections to the Internet 6. (Detailed Description, pgs. 8-9). EHI server 36 may also include I/O devices such as monitor 322, input device 324, and printed 326, which are also coupled to the bus 320. The EHI server contains a software program for running application and managing the data storage/database. Accordingly, claims 1 and 16 positively recite statutory subject matter.

Furthermore, “online location” of claims 1 and 16, from which the order for the patient record is requested, requires the use of machines. Namely, online location requires the use of a web browser to visually display the order for the patient record, which runs on a computing device, and the use of a computer server to store the patient record. (Detailed Description, pgs. 6-8). Therefore, these methods steps cannot be performed mentally and require the use of machines.

Claims 3-9, 17-22 and 25-26 are dependent on claims 1 and 16 and should be allowed for at least the same reasons.

Accordingly, withdrawal of the rejection of claims 1, 3-9, 16-22 and 25-26 under 35 U.S.C. §101, is respectfully requested.

Rejection under 35 U.S.C. §112

Claims 2, 10-15 and 23-24 are rejected under 35 U.S.C. §112, second paragraph, as being indefinite. The Examiner states that means plus function language stated in claim 2 lacks sufficient disclosed structure and is therefore indefinite under 112, second paragraph. Claim 2 has been amended to overcome this rejection.

Means for requesting an order. Disclosed structure relating to means for requesting an order is an EHI website 12 that allows insurance company employee ("IC employee" hereinafter) access to the EHI server 36; a graphical user interface that allows the IC employee to input the user information associated with the EHI website 12; and a user interface window 520, also associated with the EHI website 12, that allows the selection of a shipping location, the selection of the document location, and the type of documents that need to be ordered. (Detailed description, pgs. 10-11). The EHI website 12 is stored on the EHI server 36 and is accessible via the Internet 6. The EHI server 36 includes a processor 302, internal memory 304 and I/O interface 306, which are coupled to a bus 320. The EHI server 36 also includes a communications device 308 which provides EHI server 36 with connections to the Internet 6. (Detailed description, pgs. 8-9). EHI server 36 may also include I/O devices such as monitor 322, input device 324, and printed 326, which are also coupled to the bus 320. (Detailed description, pgs. 8-9). The EHI server contains a software program for running application and managing the data storage/database. (Detailed description, Pgs. 8-9).

Means for providing to the requestor a cover letter. Disclosed structure for means for providing a cover letter is the EHI software program 310 that is located on the EHI server 36 that generates the cover letter and the EHI web site 12 which allows for an interface to download the cover letter during the session in PDF or other format. (Detailed description, pg. 11, lines 9-17 and pg 9, lines 5-12). The EHI software program is included in the EHI server for running applications and managing the data storage/database 38. . The functional components of the software program are processed by the CPU 302 located on the EHI server. (Detailed

description, Pg. 9, line 5-13). The database 38 coupled to the bus 320 preferably includes a non-volatile storage medium such as CD-ROM, DVD, magneto-optical storage, external ROM, etc. The database 38 is used to store and save information pertaining to each insurance company and patient. (Detailed description, Pg. 9, lines 18-22).

Means for sending the cover letter to a processing center. Disclosed structure for means for sending the cover letter to a processing center is a fax or postal mail. The IC employee can prints the cover letter and the authorization letter using the printer attached to the computing device. (Detailed description, Pg. 7, lines 16-20). The IC employee can fax the cover letter using the fax machine or mail using postal mail the cover letter and the patient's authorization letter to the EHI processing center. (Detailed description, pg. 11, line 19-21). If the cover letter and the authorization letter are faxed to EHI processing center, an automated program located on the EHI server, scans the letters using a scanner and stores the letters as images in the database 38. If the letters are mailed to the processing center, EHI employee will manually scan the images using a scanner and the automated program located on the EHI server will move the images and store the information on the database 38. (Detailed description, pgs. 12-13).

Means for requesting a record from a shipping location. Disclosed structure for means for requesting a record from a shipping location is a telephone, mail, fax, and the internet. The EHI processing center processes the orders received from the insurance company. After the automated program located on the EHI server 36 checks the patient authorization letter and the cover letter and approves them, the automated program sends a request for information letter to the printer for each shipping location the IC employee has selected. (Detailed description, Pg. 13, lines 5-19) Alternatively, the processing center contacts via telephone, mail fax, internet etc, the companies A, B and n for requesting the patients' record and documents. (Detailed description, pg. 8, lines 12-15).

Means for obtaining the patient record from the destination location. Disclosed structure for means for obtaining the patient record from the destination location is the Internet or postal mail. Records and documents can be sent directly to the EHI location for scanning and imaging via the Internet or by postal mail. (Detailed description, pg 4, lines 1-3). The scanning and imaging is performed as described above. The automated program stores images on the database 38 by directing them to an input folder and providing them unique filenames. The automated

program writes the pertinent information to the database along with the image file location. (Detailed description, Pg. 12, lines 8-21).

Claims 10-15 and 23-24 are dependent on claim 2 and should be allowed for at least the same reasons.

Accordingly, withdrawal of the rejection of claims 2, 10-15 and 23-24 under 35 U.S.C. §112, second paragraph, is respectfully requested.

#### Rejections Under 35 U.S.C. §102

Claims 1-6, 8-12, 14-18 and 20-26 are rejected under 35 U.S.C. §102(e) as being anticipated by U.S. Patent No. 7,028,049 to Shelton (hereinafter “Shelton”), stating that Shelton discloses all the steps of a method of obtaining a patient record. The Applicant respectfully asserts that Shelton does not disclose each and every element of claim 1.

As amended, claim 1, in pertinent part, reads “A method of obtaining a patient record containing information concerning an identified patient using an online location on a computer server, comprising... “providing to the requestor a single cover letter having a machine readable identifier and human readable information, identifying the order requested from the online location and containing handling instructions;”... sending, by the requestor, absent intervention of an approvals agent, to a processing center ... the cover letter along with the patient authorization letter to a processing center, for completing the order...after receiving from the requestor the cover letter and the patient authorization letter, approving, by the processing center, the cover letter and the patient authorization letter, requesting, by the processing center, to a shipping location to ship the patient record concerning the identified patient to a destination location....”

Shelton does not disclose a single cover letter having a machine readable identifier and human readable information, identifying the order requested from the online location and containing shipping and handling instructions, but rather a series of requests and an electronic order form that are generated at various stages of the process. First, Shelton discloses an electronic order form that the physician, through a graphical user interface, uses to specify which records he or she would like to retrieve (Column 10, lines 28- 46). The order form of Shelton does not contain a machine readable identifier and does not contain shipping and handling instructions and the order form is sent from the requestor to the Approvals Agent.

Second, after the physician submits the completed order form, Shelton discloses a second stage search service which includes approval messages which are automatically generated by the Approvals Agent. (Column 10, lines 53-64 and Column 11, lines 10-45). The automatically generated messages contain information about the requesting party and the requested document and provide an icon for the recipient to provide consent. (Column 11, lines 31-45). These automatically generated messages are electronic and do not contain a machine readable identifier, because they will not be scanned or identified by a machine. Further, these messages do not contain shipping and handling instructions because the recipient is not shipping or handling any files. These messages are sent from the Approvals Agent to recipients from whom authorization needs to be obtained.

Alternatively, the Approvals Agent will also generate a request to the off-line user when the user is not a client (Column 11, lines 46-49). These requests do not contain machine readable identifiers nor do they contain shipping and handling instructions because they ask the recipient to contact the requesting client or the administrator to provide approval. Although the approval request may be a conventional letter or a fax, such letter is only generated when the user requiring approval does not have an email address (Column 10, lines 53-63). These messages are also sent from the Approvals Agent to recipients from whom authorization needs to be obtained.

Third, once the Approvals Agent acquires all the approvals, a message to the data administrator is generated by the Approvals Agent notifying the data administrator that all the authorizations have been obtained and asking the data administrator to transmit the documents to the requesting physician (Column 12, lines 4-13). This message is sent from the Approvals Agent to the data administrator and does not contain a machine readable identifier because the message is read by the data administrator who is human. Only then will the data administrator send requested documents to the requesting physician.

Consequently, not one of these requests or messages is the single cover letter of claim 1, because all the messages and requests are needed in order to complete the order placed by the physician. Nor do these messages contain the machine readable identifier, the human readable information and the shipping and handling instructions, because each of the messages serves a different purpose: providing authorization, placing an order or notifying of obtained authorization. By contrast, Applicant's claimed cover letter is a single cover letter that is sent directly to the processing center by the requestor. The cover letter contains all the identification

information to identify the file by the processing center as well as machine readable information so that the cover letter and patient authorization letter can be scanned and imaged by the processing center.

Furthermore, Shelton does not disclose “sending, by the requestor, absent intervention of an approvals agent, to a processing center ... the cover letter along with the patient authorization letter to a processing center, for completing the order....” Shelton discloses that the orders by the requestor are sent to the Approvals Agent. The Approval Agent in Shelton obtains authorization required from patients and the data administrator retrieves and transmits the documents to the requesting physician and completes the order. (column 12, lines 4-9). In Shelton, the described system “leaves control over all documents in the hands of the data administrator.” (column 11, lines 58-64). Shelton specifically states that there is never a direct connection established between the database and the doctor. (column 13, lines 1-5). Therefore, the processing center, as claimed by Applicant, cannot read on Approval Agent in Shelton because that would create a direct connection between the doctor and the database. By contrast, Applicant claims sending the cover letter and the patient authorization letter to the processing center, absent intervention of the approvals agent. By eliminating the extra step of obtaining authorization by the Approvals Agent, Applicant’s claims clearly distinguish over Shelton because Shelton requires the extra step of the Approvals Agent.

Additionally, Shelton does not disclose providing to the requestor a patient authorization letter. The pertinent part of claim 1 reads “providing to the requestor, by the identified patient, a patient authorization letter authorizing release of the patient record concerning the identified patient.” In Shelton, the requestor is the physician that inputs information into an order form for the needed records. Shelton then discloses the Approvals Agent obtaining all the authorization needed in order to retrieve the records needed. Therefore, Shelton does not disclose providing to the requestor the patient authorization letter, but rather providing the Approvals Agent the authorization letter.

Similarly, independent claim 2, as amended, reads “a system for obtaining a patient record comprising means for providing to the requestor a single cover letter having a machine readable identifier and human readable information, identifying the order requested from the online location and containing shipping and handling instructions.” Therefore, claim 2 contains the same limitation of “a single cover letter having a machine readable identifier and human

readable information, identifying the order requested from the online location and containing shipping and handling instructions” of claim 1 that Shelton fails to disclose.

Additionally, claim 2, as amended reads “means for sending, by the requestor, absent intervention of an approvals agent, the cover letter along with a patient authorization letter, obtained by the requestor from the identified patient, authorizing release of the patient record, to a processing center.” Shelton discloses an Approvals Agent seeking approvals that are then to be sent to the processing center. Furthermore, Shelton fails to disclose a patient authorization letter obtained by the requestor because Shelton discloses that the Approvals Agent, not the requesting physician, obtains the authorization or approvals required to release the records.

Likewise, independent claim 16 contains the same limitations of “a single cover letter having a machine readable identifier and human readable information, identifying the order requested and containing shipping and handling instructions,” the step of “providing to the requestor...a patient authorization letter,” and further the step of sending, by the requestor, absent intervention of an approvals agent, the cover letter along with the patient authorization letter to a processing center associated with the online location for completing the order” of claim 1 that Shelton fails to disclose. Claims 3-6, 8-12, 13-15, 17-18 and 20-26 are dependent on claims 1, 2 and 16 and should be allowed for at least the same reasons.

Accordingly, withdrawal of the rejection of claims 1-6, 8-12, 14-18 and 20-26 under 35 U.S.C. §102(e) is respectfully requested.

#### Rejections Under 35 U.S.C. §103

Claims 7, 13 and 19 are rejected under 35 U.S.C. §103(a) as being unpatentable over “Shelton” as applied to claims 1, 2 and 16 and further in view of U.S. Patent No. 6,988,075 to Hacker (hereinafter “Hacker”) for substantially the same reasons as in the previous Office Action (paper number 20080309).

As discussed above, Shelton does not disclose the single cover letter having a machine readable identifier and human readable information, identifying the order requested and containing shipping and handling instructions or approving, by the processing center, the cover letter and the patient authorization letter, of claims 1, 2, and 16, the step of providing to the requestor the authorization letter of claims 1 and 16, or the “means for sending, by the requestor, absent intervention of an approvals agent ... a patient authorization letter, obtained by the

requestor” of claim 2. Hacker only provides a bar code. Hacker does not provide the missing elements and therefore the combination of Shelton and Hacker does not teach every limitation of claims 1, 2 and 16. Claims 7, 13 and 19 are dependent on claims 1, 2 and 16 and are therefore allowable for at least the same reasons.

Accordingly, withdrawal of the rejection of claims 7, 13 and 19 under 35 U.S.C. §103(a) is respectfully requested.

### **CONCLUSION**

In view of the foregoing amendments and remarks, reconsideration is respectfully requested. This application should now be in condition for allowance; a notice to this effect is respectfully requested. If the Examiner believes, after this amendment, that the application is not in condition for allowance, the Examiner is requested to call the Applicant’s attorney at the telephone number listed below.

If this response is not considered timely filed and if a request for an extension of time is otherwise absent, Applicant hereby requests any necessary extension of time. If there is a fee occasioned by this response, including an extension fee that is not covered by an accompanying payment, please charge any deficiency to Deposit Account No. 50/2762, Ref. C1151-7000.

Respectfully submitted,  
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